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**SOUTHWEST GAS CORPORATION**

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AZ CORP COMMISSION
DOCKET CONTROL

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March 7, 2008

Docket Control Center
Arizona Corporation Commission
1200 West Washington Street
Phoenix, AZ 85007

**Re: Docket No. G-01551A-07-0186 (Decision No. 69572)**

Southwest herewith submits an original and thirteen (13) copies of its Motion to continue providing natural gas service to Yuma Cogeneration Associates pursuant to the Special Gas Procurement Agreement approved in the above-mentioned docket.

If you have any questions, please contact me at (702) 876-7163.

Respectfully,

Debra S. Jacobson BY

Debra S. Jacobson, Director
Government & State Regulatory Affairs

c Ernest Johnson, ACC
Robert Gray, ACC

Arizona Corporation Commission
DOCKETED
MAR 11 2008
DOCKETED BY nr

**BEFORE THE ARIZONA CORPORATION COMMISSION**

COMMISSIONERS

MIKE GLEASON, CHAIRMAN
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
KRISTIN K. MAYES
GARY PIERCE

| | |
|---|---|
| IN THE MATTER OF THE APPLICATION OF SOUTHWEST GAS CORPORATION FOR APPROVAL OF A SPECIAL GAS PROCUREMENT AGREEMENT WITH YUMA COGENERATION ASSOCIATES | DOCKET NO. G-01551A-07-0186<br><br>**MOTION** |

Southwest Gas Corporation ("Southwest"), pursuant to the Arizona Corporation Commission's Rules of Practice and Procedure R14-3-106, hereby moves the Arizona Corporation Commission ("Commission") for an order authorizing Southwest to continue to provide natural gas service to Yuma Cogeneration Associates ("YCA") pursuant to the terms and conditions of the special gas procurement agreement entered into by the parties March 20, 2007 ("2007 SPA"). In support of this motion, Southwest states as follows:

1. In Decision No. 69572, dated May 21, 2007 (Docket No. G-01551A-07-0186), the Commission, among other things, approved the 2007 SPA. In addition, the Commission's order stated "if Southwest proposes to extend the SGPA beyond April 30, 2008, that Southwest provide detailed information demonstrating that the bypass option for Yuma Cogen is real and viable, particularly in light of the constrained nature of El Paso's Yuma lateral."

2. Southwest recently filed an application with the Commission requesting an order approving a new special gas procurement agreement between Southwest and YCA ("Application"). However, the 2007 SPA expires April 30, 2008 per the Commission's order in Decision 69572. In order to provide Commission staff sufficient time to review the Application and to prevent any change in the terms and conditions of service to YCA pending a decision from the Commission on

the Application, Southwest hereby moves the Commission for an order authorizing it to continue to provide natural gas service to YCA pursuant to the terms and conditions of the 2007 SPA until a Commission decision on Southwest's Application or until July 31, 2008, whichever occurs first.

3. Attached hereto as Exhibit 1 is a copy of Southwest's Application requesting Commission approval of a new special gas procurement agreement with YCA. Southwest submits that the information contained therein satisfies the mandate set forth by the Commission in Decision 69572 with respect to sufficiently demonstrating that the bypass option for YCA is real and viable. Southwest incorporates by reference the information contained in the Application in support of its request herein for an extension of the 2007 SPA.

WHEREFORE, based upon the foregoing, Southwest respectfully requests that the Commission:

1. Issue an order on or before April 30, 2008 authorizing Southwest to continue service to YCA pursuant to the terms and conditions of the 2007 SPA until the Commission issues a decision on Southwest's Application or July 31, 2008, whichever occurs first.

DATED this 7th day of March 2008.

Respectfully submitted by,
SOUTHWEST GAS CORPORATION


Karen S. Haller
Arizona Bar No. 012737
5241 Spring Mountain Road
P.O. Box 98510
Las Vegas, Nevada 89193-8510
Telephone No. (702) 364-3191
Facsimile No. (702) 252-7283
E-mail: karen.haller@swgas.com

*Attorney for Southwest Gas Corporation*

## CERTIFICATE OF SERVICE

I hereby certify that on the 10th day of March 2008, and pursuant to R14-3-107 of the Rule of Practice and Procedure of the Arizona Corporation Commission, I caused to be served a copy of the foregoing **Motion** by mailing copies thereof, properly addressed, with first class postage prepaid, to the following:

Janice Alward, Esq.
Legal Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Bob Gray
Utilities Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Scott Wakefield, Esq.
Residential Utility Consumer Office
1110 West Washington Street, Suite 220
Phoenix, Arizona 85007

an employee of Southwest Gas Corporation

# Exhibit 1

SOUTHWEST GAS CORPORATION

March 7, 2008

Docket Control Center
Arizona Corporation Commission
1200 West Washington Street
Phoenix, AZ 85007

**Re: <u>Application of Southwest Gas Corporation for approval of a Special Gas Procurement Agreement with Yuma Cogeneration Associates</u>**

Southwest Gas Corporation (Southwest) herewith submits an original and thirteen (13) copies of its Application for approval of a Special Gas Procurement Agreement (Agreement) with Yuma Cogeneration Associates. The attached Agreement also includes an Exhibit A which has been redacted due to the proprietary and commercially-sensitive nature of the information contained in such exhibit. In addition, Southwest is providing an unredacted copy of Exhibit A to the ACC Staff. The unredacted exhibit is being provided under seal in reliance upon a Protective Agreement executed by Southwest and the ACC Staff.

If you have any questions, please contact me at (702) 876-7163.

Respectfully,

Debra S. Jacobson BY

Debra S. Jacobson, Director
Government & State Regulatory Affairs

c Ernest Johnson, ACC
Robert Gray, ACC

5241 Spring Mountain Road / Las Vegas, Nevada 89150-0002
P.O. Box 98510 / Las Vegas, Nevada 89193-8510 / (702) 876-7011
www.swgas.com

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

MIKE GLEASON, CHAIRMAN
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
KRISTIN K. MAYES
GARY PIERCE

| | |
|---|---|
| IN THE MATTER OF THE APPLICATION OF SOUTHWEST GAS CORPORATION FOR APPROVAL OF A SPECIAL GAS PROCUREMENT AGREEMENT WITH YUMA COGENERATION ASSOCIATES | DOCKET NO. G-01551A-08-____<br><br>**APPLICATION** |

Southwest Gas Corporation ("Southwest"), pursuant to the Arizona Corporation Commission's Rules of Practice and Procedure R14-3-106 and Schedule No. G-30 of Southwest's Arizona Gas Tariff No. 7, hereby submits its application to the Arizona Corporation Commission ("Commission") respectfully requesting approval of a special gas procurement agreement entered into by and between Southwest and Yuma Cogeneration Associates ("YCA") for the supply of natural gas services beginning May 1, 2008. In support of this Application, Southwest states as follows:

1. Southwest is a corporation duly organized and validly existing under the laws of the state of California, and is qualified to transact intrastate business and is in good standing under the laws of the state of Arizona. Southwest is engaged in the retail transmission, distribution, transportation, and sale of natural gas for domestic, commercial, agricultural, and industrial uses to approximately 1.7 million customers in the states of Arizona, California, and Nevada. Southwest's corporate offices are located at 5241 Spring Mountain Road, P.O. Box 98510, Las Vegas, Nevada 89193-8510, telephone (702) 876-7011.

2. Southwest is a public utility in the state of Arizona and is subject to the Commission's jurisdiction with respect to its prices and terms of natural gas service to retail

customers in Arizona pursuant to the applicable sections of Article XV of the Arizona Constitution and the applicable chapters of Title 40 of the Arizona Revised Statutes. Southwest currently provides natural gas service to approximately 960,000 customers in ten counties in the state of Arizona, including, Cochise, Gila, Graham, Greenlee, La Paz, Maricopa, Mohave, Pima, Pinal, and Yuma.

3. Communications regarding this filing should be addressed to:

Debra S. Jacobson
Director/Government and State Regulatory Affairs
Southwest Gas Corporation
P.O. Box 98510
Las Vegas, Nevada 89193-8510
Telephone No. (702) 876-7163
Electronic mail: debra.jacobson@swgas.com

Justin Lee Brown, Esq.
Assistant General Counsel
Southwest Gas Corporation
P.O. Box 98510
Las Vegas, Nevada 89193-8510
Telephone No. (702) 876-7183
Electronic mail: justin.brown@swgas.com

**Brief Overview of Application**

4. Schedule No. G-30 provides that if a customer qualifies for service under applicability provision (3) (commonly referred to as a bypass customer) and if Southwest is unable to serve the customer utilizing the "floor cost of gas" as defined in Schedule No. G-30, then the parties shall enter into a special gas procurement agreement that shall be approved by the Commission.

5. Historically, Southwest has provided service to YCA pursuant to a special gas procurement agreement. The Commission approved the existing special gas procurement agreement between Southwest and YCA in Decision No. 69572 (May 21, 2007). The existing

special gas procurement agreement is scheduled to expire April 30, 2008. Consequently, and in compliance with Schedule No. G-30, Southwest and YCA have negotiated a new proposed special gas procurement agreement ("SPA") and hereby request that the Commission approve the proposed SPA. A copy of which is enclosed herewith as Exhibit 1.

6. Exhibit A to the SPA contains the financial terms of the proposed SPA and it has been redacted due to the proprietary and commercially sensitive nature of the information contained therein. Concurrent with the filing of this Application, Southwest is providing a copy of the proposed SPA with an unredacted copy of Exhibit A to Commission's Staff pursuant to the terms and conditions of a confidentiality agreement entered into by the parties.

7. Pursuant to the proposed SPA, Southwest will purchase and deliver natural gas to YCA using its interstate pipeline capacity portfolio and YCA will receive and pay for the natural gas volumes purchased and delivered by Southwest to YCA. Charges under the proposed SPA include a monthly basic charge, applicable upstream pipeline costs, and volumetric charges including the gas costs. The proposed SPA also permits Southwest to pass through to YCA certain charges and penalties incurred by Southwest as a result of its service to YCA and for Southwest to cash out YCA for any daily imbalances created under the SPA so that no imbalances will be carried by Southwest.

8. The proposed SPA also contains provisions detailing how YCA and Southwest will coordinate various operational issues, including provisions allowing Southwest to recall or divert gas supplies and capacity for up to ten days during the period of October through April, as needed by Southwest to meet its core customer service needs.

9. Upon Commission approval, the proposed SPA would become effective May 1, 2008 and shall remain in effect for a primary term of two years, and continue on a month-to-month basis, subject to certain notice requirements for termination.

**Applicability Criteria of Schedule G-30**

10. As noted above, service under Schedule G-30 is available to customers who meet certain applicability criteria. The applicability criteria include the following: (1) customers whose average monthly requirements on an annual basis are greater than 11,000 therms per month and who have installed facilities capable of burning alternate fuels or energy; (2) customers whose average monthly requirements on an annual basis are greater than 11,000 therms per month and who can demonstrate to the utility sufficient evidence of economic hardship under the customer's otherwise applicable sales tariff schedule; or (3) customers whose requirements may be served by other natural gas suppliers at rates lower than the customer's otherwise applicable gas sales tariff schedule.

11. As a condition precedent to qualifying for service under applicability provision (3), the customer must qualify for transportation service under Schedule No. T-1 and establish that bypass is economically, operationally, and physically feasible and imminent.

12. YCA satisfies the applicability provisions for transportation service because Southwest has available capacity on its distribution system to render service to YCA without construction of any additional facilities and YCA's average monthly requirements are no less than 15,000 therms, including the months of May through September.

13. YCA also satisfies bypass criteria because it can demonstrate that bypass is economically, operationally, and physically feasible and imminent.

*Economic Feasibility:*

14. Southwest and YCA entered into a Master Agreement dated June 30, 1993 where Southwest constructed necessary distribution system facilities ("Southwest-YCA Facilities") to serve YCA from the El Paso Natural Gas Company ("EPNG") pipeline. The EPNG pipeline is located adjacent to YCA's facility. Among other provisions, the Master Agreement grants YCA the ability to purchase the Southwest-YCA Facilities along with Southwest's right to the El Paso tap. If YCA were to exercise this option, little if any additional work would be required by YCA to complete a physical bypass of Southwest's system.

15. During the 12 months ended January 31, 2008, YCA consumed enough therms of natural gas that if they stopped service from Southwest the simple payback to YCA for acquiring these facilities would occur in less than six months.

16. Accordingly, bypass is economically feasible because YCA can purchase the Southwest-YCA Facilities for less than half of the amount of margin it pays to Southwest on an annual basis. There are also no constraints associated with YCA acquiring these facilities that would prevent an imminent bypass.

*Operational Feasibility:*

17. YCA also satisfies the bypass criteria for operational feasibility because of its ability to acquire the facilities necessary to bypass Southwest and its ability to burn alternative fuel during any period in which natural gas is unavailable.

18. As noted above, YCA has the ability to purchase the necessary tap and metering facilities to bypass Southwest. Upon acquisition of Southwest-YCA Facilities, YCA will have the necessary facilities to bypass Southwest.

19. In addition, while YCA's facility is primarily fueled by natural gas, the facility maintains the necessary permits and equipment to switch to number two fuel oil, if natural gas is not

available. Accordingly, YCA has the operational means to bypass Southwest and there are no constraints that would prevent an imminent bypass.

*Physical Feasibility:*

20. As noted above, EPNG's pipeline is adjacent to YCA's facility. Currently, the firm capacity on this portion of EPNG's system, known commonly as the Yuma Lateral, is fully subscribed by Southwest and Arizona Public Service Company.

21. While Southwest holds sufficient capacity to serve YCA along with the demands of its other sales customers, if it were not using this capacity to serve YCA as a sales customer there would be a high likelihood that the capacity would be made available for another shipper to use on an alternate or interruptible basis. This scenario provides YCA with a fairly reliable opportunity to receive service directly from El Paso. In addition, during a period when El Paso could not schedule gas to YCA, it has the option to burn fuel oil. Accordingly, YCA has or can acquire the physical means to bypass Southwest and there are no constraints that would prevent an imminent bypass.

**Floor Cost of Gas**

22. Schedule No. G-30 provides that if Southwest is unable to serve a customer utilizing the floor cost of gas, a special procurement agreement shall be executed and approved by the Commission.

23. Floor cost of gas is defined as the sum of (1) the weighted average commodity cost of gas purchased by Southwest for system supply during the month; (2) an amount to reflect Southwest's upstream pipeline capacity charge; and (3) an amount to reflect distribution system shrinkage.

24. Southwest is unable to serve YCA utilizing the "floor cost of gas" as defined in Schedule No. G-30 because YCA's revenue through its power purchase agreement is based on first-

of-month gas cost pricing at the Malin trading point. By using Southwest's floor cost of gas, YCA would be exposed to an unacceptable level of risk resulting from differences between the floor cost of gas and the Malin index. To address this risk, the proposed SPA provides gas cost pricing to YCA based on a Permian first of month index. As such, in compliance with Schedule No. G-30, Southwest and YCA hereby submit the proposed SPA for Commission approval.

25. In Decision No. 69572 (May 21, 2007), the Commission, among other things, ordered that if Southwest proposes to extend the special gas procurement agreement beyond April 30, 2008, that Southwest would need to provide detailed information demonstrating that the bypass option for YCA is real and viable, particularly in light of the constrained nature of El Paso's Yuma lateral.

26. Southwest submits that the information contained herein sufficiently demonstrates that the bypass option for YCA is real and viable, and satisfies the concerns expressed by the Commission regarding the viability of YCA bypassing Southwest in the last proceeding.

**Waiver of Thirty Day Time Period**

27. To the extent that a statutory 30-day time period applies to the Commission Staff submitting its recommendations to the Commission, Southwest hereby agrees to waive said 30-day time period to allow Commission Staff sufficient time to analyze the filing and to make an appropriate recommendation to the Commission.

WHEREFORE, based upon the foregoing, Southwest respectfully requests that the Commission:

1. Issue an order approving the proposed SPA.

2. Granting and conferring upon Southwest such other and/or additional permission and authority as the Commission may deem appropriate under the circumstances.

DATED this 7th day of March 2008.

Respectfully submitted by,

SOUTHWEST GAS CORPORATION

Karen S. Haller
Arizona Bar No. 012737
5241 Spring Mountain Road
P.O. Box 98510
Las Vegas, Nevada 89193-8510
Telephone No. (702) 364-3191
Facsimile No. (702) 252-7283
E-mail: karen.haller@swgas.com

*Attorney for Southwest Gas Corporation*

## CERTIFICATE OF SERVICE

I hereby certify that on the 7th day of March 2008, and pursuant to R14-3-107 of the Rule of Practice and Procedure of the Arizona Corporation Commission, I caused to be served a copy of the foregoing **Application** by mailing copies thereof, properly addressed, with first class postage prepaid, to the following:

Janice Alward, Esq.
Legal Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Bob Gray
Utilities Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Scott Wakefield, Esq.
Residential Utility Consumer Office
1110 West Washington Street, Suite 220
Phoenix, Arizona 85007

an employee of Southwest Gas Corporation

# SOUTHWEST GAS CORPORATION
# SPECIAL GAS
# PROCUREMENT AGREEMENT
# UNDER SCHEDULE G-30

This Service Agreement ("Agreement") is made and entered into as of the 25th day of February 2008, by and between SOUTHWEST GAS CORPORATION, a California corporation, herein called the Utility and YUMA COGENERATION ASSOCIATES, herein called the Customer.

WITNESSETH:

In consideration of the mutual covenants and agreements as herein set forth, the Utility and the Customer agree as follows:

## ARTICLE I - GAS TO BE SOLD AND PURCHASED

Subject to the terms, conditions and limitations hereof, the Utility agrees to sell and deliver to the Customer and the Customer agrees to receive, purchase and pay for natural gas volumes purchased and delivered by the Utility on behalf of the Customer.

## ARTICLE II - DELIVERY POINTS AND PROVISIONS OF SERVICE

Delivery of natural gas by the Utility to the Customer shall be at or near the points whose locations are listed below, and shall be in accordance with Rule No. 7 of the Utility's Arizona Gas Tariff.

Delivery Point(s)
280 N. 27th Drive, Yuma, Arizona

## ARTICLE III - APPLICABLE RATES AND RATE SCHEDULE

The Customer agrees to pay the Utility for all natural gas sales service rendered under the terms of this Agreement in accordance with the Utility's Schedule No. G-30, as approved by the Arizona Corporation Commission ("ACC") and as amended or superseded from time to time. The rates to be charged pursuant to Special Condition No. 3 of Schedule No. G-30 are set forth in the Exhibit A attached hereto and made a part hereof. This Agreement shall be subject to the provisions of such Schedule and the Rules and Regulations applicable thereto on file with the Commission and effective from time to time, which by this reference are incorporated herein and made a part hereof.

The volumetric charge component of the Volumetric Charge set forth in Exhibit A shall be increased annually beginning May 1, 2009. The increase shall be equal to one hundred percent (100%) of the preceding year average (January to December) percentage increase in the Consumer Price Index - All Urban, All Items (CPI) as published by the Bureau of Labor Statistics of the United States Department of Labor, using 1982-1984 as the base period of 100. For example, the percentage increase for May 1, 2009 shall be determined by dividing the Annual 2008 CPI by the Annual 2007 CPI. The resulting quotient shall be reduced by the integer one (1) and multiplied by one hundred (100) to arrive at the percentage increase. Should this formula yield a negative percentage, there will be no adjustment to the volumetric charge component. If the 1982-1984 base period shall no longer be used as an index of 100, the revised base period and index established by the United States Bureau of labor Statistics shall be utilized to calculate all rate increases.

## ARTICLE IV - TERM OF AGREEMENT

This Agreement shall become effective on May 1, 2008, subject to approval by the ACC, and shall remain in effect for a primary term of two (2) years and shall continue thereafter on a month to month basis. This Agreement is subject to termination upon the expiration of the primary term or thereafter by either party providing ninety (90) days advance written notice to the other party.

Customer shall begin service under this Agreement on the first day of the first month following ACC approval of this Agreement, unless the date upon which the ACC approves this Agreement does not afford Customer the opportunity to comply with the five (5) day advance notice for daily volume requirements set forth Article VI, Section A. In which case, the Customer shall begin service under this Agreement on the first day of the second month following ACC approval of this Agreement.

## ARTICLE V - NOTICES

Unless herein provided to the contrary, any notice called for in this Agreement shall be in writing and shall be considered as having been given if delivered personally, by mail, overnight delivery service or facsimile with all postage and charges prepaid, to either the Customer or the Utility at the place designated. Routine communications shall be considered as duly delivered when mailed by ordinary mail. Normal operating instructions can be made by telephone. Unless changed, the addresses of the parties are as follows:

SOUTHWEST GAS CORPORATION
Key Account Management Department
P.O. Box 98510 LVB-106
Las Vegas, Nevada 89193-8510
Phone No. (702) 364-3063
Fax No. (702) 365-5904

YUMA COGENERATION ASSOCIATES
Attn.: General Manager
280 N. 27th Drive
Yuma, Arizona 85364
Phone No. (928) 329-8514
Fax No. (928) 329-6015

With a courtesy copy to:
President, CE Generation, LLC
7030 Gentry Road
Calipatria, CA 92233
Phone No. (760) 348-4000
Fax No. (760) 348-4233

Either party may change its address at any time upon written notice to the other.

## ARTICLE VI - OTHER OPERATING PROVISIONS

### A. OPERATING CONDITIONS

Five (5) business days before the first day of each month, Customer shall provide Utility, in writing or electronic form, the daily volume requested for the following month ("Requested Daily Volume") and such notice shall serve as the basis for Utility's acquisition of gas supply. Thereafter, Customer must nominate its anticipated usage on a daily basis no later than 6:00 a.m. Pacific Clock Time the calendar day before the gas flow day ("Previous Day Deadline"). Customer will have the option to nominate its daily requirements for an entire month or partial month, or to revise an existing daily nomination. However, any revision to an existing daily nomination must be made by the Previous Day Deadline. This daily nomination will be the basis for determining Customer's proportionate share of any charge or penalties billed to Utility by an upstream pipeline as described below.

Gas supplies and/or capacity are subject to diversion and/or recall by Utility up to a maximum of ten (10) days during the months of October through April as needed. Utility will credit Customer for any base-load volumes and applicable upstream charges incurred during the diversion as provided in Exhibit A. Utility will make a reasonable effort to provide notice of any such diversion 48 hours prior to the commencement of the applicable gas flow day. However, Utility reserves the right to call for such diversion up to the cycle 3 nomination deadline of the gas flow day.

During periods when an upstream pipeline has declared a Strained Operating Condition ("SOC"), a Critical Operating Condition ("COC"), an Alert Day, or any similar flow restraint or warning condition provided for in the upstream pipeline's tariff, Customer agrees to limit its daily usage to the nominated volumes.

As described below, Customer is subject to the pass-through of any charges or penalties incurred and billed to Utility by an upstream pipeline that are attributable to a variance between Customer's usage on any day or during any hour, and its nomination for that day. To make such determination, Customer's daily nomination shall be presumed to be for ratable hourly takes of gas during the day and Customer shall be afforded the same tolerance or safe harbor percentages by Utility as are afforded Utility by the upstream pipeline for both daily and hourly considerations.

Whenever any charge or penalties are incurred and billed to Utility by an upstream pipeline due to over or under takes of gas on any day or during any hour, Customer will be charged a pro-rata share of such charges or penalties, based on any volumes used by Customer above or below its daily nomination and/or presumed hourly rights for that day, as applicable to the pipeline charge or penalty taking into consideration the same tolerance or safe harbor percentages as are afforded Utility by the upstream pipeline for both daily and hourly considerations.

### B. CONFIDENTIALITY

Neither the Utility nor the Customer, nor their respective affiliates, directors, officers, employees, agents nor permitted assignees shall disclose to any third party the terms and provisions of this Agreement without the other party's prior written consent; provided, however that the Utility may make such disclosure of the terms and provisions of this Agreement to the ACC as in the opinion of counsel to the Utility is required by applicable law, rule or regulation, and provided that with respect to any such disclosure to the ACC, the Utility shall take all steps reasonably available to maintain the confidentiality of this Agreement and prevent its disclosure to third parties; and provided further that the Customer may make such disclosure as required by law, and on a confidential basis, of the terms and provisions of this Agreement to their consultants and attorneys.

### C. CONSTRUCTION OF FACILITIES

If the Customer requests the Utility to provide natural gas service at delivery points other than those designated in this Agreement, the parties shall execute an additional agreement for that service.

## ARTICLE VII - ADJUSTMENTS TO RULES AND REGULATIONS

- None -

## ARTICLE VIII - PRIOR AGREEMENTS

When this Agreement becomes effective, it supersedes, cancels and terminates the following agreement(s):

Special Gas Procurement Agreement, dated March 20, 2007, as amended by letter agreement dated June 6, 2007.

## ARTICLE IX - REGULATORY REQUIREMENTS

The Customer shall not knowingly take any action that would subject the Utility to the jurisdiction of the Federal Energy Regulatory Commission ("FERC"), the Department of Energy, or any successor governmental agency. Any such action shall be cause for immediate termination of this Agreement. This Agreement, all terms and provisions contained or incorporated herein, and the respective obligations of the parties hereunder are subject to all valid laws, orders, rules and regulations of duly constituted authorities having jurisdiction over the subject matter of this Agreement. This Agreement shall at all times be subject to such changes or modifications by the ACC as it may from time to time direct in the exercise of its jurisdiction.

Should the FERC, ACC or any other regulatory or successor governmental agency having jurisdiction impose by rule, order or regulation any terms or conditions upon this Agreement which are not mutually satisfactory to the parties, then either party upon the issuance of such rule, order or regulation, and notification to the other party, may terminate this Agreement by giving thirty (30) days written notice.

Utility shall file this Agreement with the ACC requesting approval thereof. The parties hereby agree to support all elements of this Agreement in proceedings before the ACC, and to advocate in good faith that the ACC approve this Agreement in its entirety. The parties agree to present hearing testimony and evidence in support of this Agreement to the extent requested by the ACC and to acknowledge that their support and advocacy of the Agreement is based upon the Agreement as a whole, in its entirety, and not based upon its individual components viewed in isolation.

This Agreement shall not become effective and shall be given no force and effect until the issuance of a final Commission decision that accepts and approves this Stipulation. If the ACC does not approve this Agreement by April 23, 2008, Utility can not extend the term of the existing Special Gas Procurement Agreement dated March 20, 2007 without approval from the ACC. Until such time when the ACC renders a decision, the Customer may request service from the Utility under Schedule No. G-30 using the floor cost of gas or an otherwise applicable rate schedule. Such service will require a separate service agreement between Customer and Utility.

## ARTICLE X - SUCCESSORS AND ASSIGNS

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. This Agreement may be assigned or transferred by either party with the written approval of the other party. Such approval shall not be unreasonably withheld. As between the parties hereto, such assignment shall become effective on the next regularly scheduled meter read date following receipt of written notice that such assignment has been effectuated.

## ARTICLE XI - RULES

The standard Rules of the Utility as authorized by and on file with the ACC in the Utility's Arizona Gas Tariff shall apply to the transaction to be performed hereunder, and are hereby incorporated by reference into this Agreement, except as otherwise provided in this Agreement.

## ARTICLE XII – RELATIONSHIP OF THE PARTIES

Nothing in this Agreement shall be construed to create any partnership, joint venture, employment relationship, franchise, or agency as between the Parties. The relationship of the Parties hereunder shall be that of independent parties. Neither Party is intended to have, nor shall any Party represent to any other person that it has any power, right or authority to bind the other Party, or to assume or create any obligation or responsibility, express or implied, on behalf of the other Party, except as expressly required or authorized by this Agreement, or as otherwise permitted in writing.

Nothing in this Agreement, express or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any persons other than the parties to the Agreement and their respective successors and assigns, nor is anything in this Agreement intended to relieve or discharge the obligation or liability of any third persons to any party to the Agreement, nor shall any provision give any third person the right of subrogation or action over any party to the Agreement.

## ARTICLE XIII - MODIFICATIONS

Modifications or changes to this Agreement must be in writing and signed by the Parties. In the event the ACC rejects or will not approve the Agreement absent material alterations to the Agreement, the Parties hereby agree to meet and confer within ten business (10) days of the ACC decision to discuss the alterations that would need to be made to the Agreement in order for the ACC to approve it, and if they are unable to make mutually acceptable modifications to the Agreement the parties may withdraw from the terms of this Agreement, rendering it null and void.

## ARTICLE XIV - SEVERABILITY

Whenever possible, each provision of this Agreement shall be interpreted in such manner so as to be effective and valid under applicable law. If any provision of this Agreement shall be deemed to be prohibited or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity. Such probation or invalidity shall not invalidate the remainder of the provision or the other provisions of this Agreement.

## ARTICLE XV – CUMULATIVE RIGHTS; NO WAIVER OF RIGHTS

Each and every right granted to a party or allowed by law or equity shall be cumulative and not exclusive. No failure to exercise, or a delay in exercising any right, will operate as a waiver thereof, nor will any single or partial excuse of any right by a party preclude any other or future exercise thereof or the exercise of any other right.

## ARTICLE XVI – GOVERNING LAW

This Agreement shall be construed, interpreted and enforced in accordance with the laws of the State of Arizona, without consideration of its choice of law provisions.

## ARTICLE XVII – ENTIRE AGREEMENT

This Agreement, inclusive of Exhibit A, constitutes the entire agreement and understanding of the parties with respect to the subject matter of this Agreement. This Agreement supersedes all prior agreements and understandings, oral or written, between the parties regarding the subject matter contained herein, with the exception of the Master Agreement dated June 30, 1993. This Agreement may be executed in counterparts, each of which shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

| SOUTHWEST GAS CORPORATION | | YUMA COGENERATION ASSOCIATES | |
|---|---|---|---|
| | "Utility" | | "Customer" |
| By: | [signature] William N. Moody | By: | [signature] |
| Title: | Vice President Gas Resources | Title: | President |
| Date: | 2/22/08 | Date: | 2/21/08 |

**SOUTHWEST GAS CORPORATION**
**SPECIAL PROCUREMENT AGREEMENT**
**UNDER SCHEDULE NO. G-30**

| CURRENT EFFECTIVE RATES: | Amount |
|---|---|
| Basic Charge/Month | [redacted] |

All the applicable Upstream Pipeline Costs[1]

Any Daily Cashout amounts[2]

Volumetric Charge =

Gas Costs[3] plus

- All Fuel and Variable charges on the El Paso Natural Gas Company ("El Paso") system for Rate Schedule FT-1 service.
- A volumetric charge of [redacted]
- The DOT Pipeline Safety Surcharge[4] of $.0072 per Dth

1] **Upstream Pipeline Costs:** Customer's Requested Daily Volume will determine on a monthly basis the amount of capacity required for its operations ("Monthly Capacity Volume"). This capacity will be priced at the El Paso FT-1 reservation rate. Customer will receive a pro rata share of any capacity charges refunded to the Utility by El Paso for FT-1 service.

For any day when volumes or capacity has been diverted or Customer's service has been interrupted by the Utility, Utility shall credit Customer an amount equal to the El Paso FT-1 monthly rate divided by 30.4, multiplied times the Monthly Capacity Volume.

2] **Daily Cashout:** No volumetric imbalance shall accrue between Customer and Utility. To the extent Customer takes more or less during any gas day than the Requested Daily Volume specified in its notice, the Base Gas Cost for the month shall be adjusted on a daily cashout basis as follows:

(a) For any day during which Customer takes more than the Requested Daily Volume, the Base Gas Cost shall be positively adjusted by multiplying the excess take volume by the sum of the Monthly Base Price and any positive difference of the Gas Daily Common highest basin price for El Paso Natural Gas Company minus the Monthly Base Price.

Further, for any day during which the Customer takes more than the Requested daily Volume, the excess take volume shall be subject to the El Paso FT-1 monthly reservation rate divided by 30.4.

Example Daily Cashout Adjustment
A = Excess Take Volume **(A Positive Number)**
B = Monthly Base Price
C = Highest basin Gas Daily Common
E = El Paso FT-1 Monthly Reservation Rate Divided by 30.4

Daily Positive Cashout Adjustment = A x [B + (C-B) + E], $(C-B) \geq 0$. Customer's resultant positive cost adjustment for excess take volume never to be less than the Monthly Base Price.

(b) For any day during which Customer takes less than the Requested Daily Volume, the Base Gas Cost shall be negatively adjusted by multiplying the deficient take volume by the sum of the Monthly Base Price and any negative difference of the Gas Daily Common lowest basin price for El Paso Natural Gas Company minus the Monthly Base Price.

Example Daily Cashout Adjustment
A = Deficient Take Volume **(A Negative Number)**
B = Monthly Base Price
D = Lowest basin Gas Daily Common

Daily Negative Cashout Adjustment = A x [B + (D-B)], $(D-B) \leq 0$. Customer's resultant negative cost adjustment for deficient take volume never to be more than the Monthly Base Price.

(c) For any day volumes or capacity have been diverted or Customer's service has been interrupted by the Utility, Utility shall credit Customer an amount equal to the volume of gas diverted multiplied times the Monthly Base Price.

3] **Gas Costs:** Upon receiving notice of the Requested Daily Volume (see Operating Conditions), Utility will attempt to secure the requested volume as a baseload supply for the stated month at or below the INSIDE FERC El Paso Permian first of month index price, but as near to such price as available if the flat index price can not be acquired (the "Monthly Base Price"). Utility will advise Customer of the Monthly Base Price promptly after it is confirmed. Customer's "Base Gas Cost" for the month shall be the Monthly Base Price multiplied by the daily volume in the Customer's notice times the number of days in the month.

4] **The Department of Transportation (DOT) Pipeline Safety Surcharge:** The DOT Pipeline Safety Surcharge shall be revised from time to time upon approval by the ACC.

**Billing:** Volumetric charges will be billed monthly on actual volumes used.

Pricing examples are shown on the next page and are only for illustration purposes and do not include volumetric charges.

SOUTHWEST GAS CORPORATION
PROPOSED TERMS AND OPERATING CONDITIONS
YUMA COGENERATION AND ASSOCIATES

## G-30 Special Procurement Agreement

**Pricing Examples**

B
[redacted] Requested Daily Volume
[redacted] Monthly Base Price
$ 9.2071 El Paso FT-1 Montly Reservation Rate

$ 1,800,000.00 Monthly Base Gas Cost

(Assume 30 days per month)

| | | | Day 1 | Day 2 | | Day 3 | Day 4 |
|---|---|---|---|---|---|---|---|
| | Requested Daily Volume | | 10,000 | 10,000 | | 10,000 | 10,000 |
| | Actual Usage | | 12,000 | 12,000 | | 8,000 | 8,000 |
| A | Excess (Deficient) Take Volume | | 2,000 | 2,000 | | (2,000) | (2,000) |
| C | Highest Basin Gas Daily Common | | $ 7.00 | $ 5.00 | | | |
| D | Lowest Basin Gas Daily Common | | | | | $ 7.00 | $ 5.00 |
| | Monthly Base Price (B) | | $ 6.00 | $ 6.00 | | $ 6.00 | $ 6.00 |
| | | + | | | | | |
| | | (C-B) | $ 1.00 | $ - | (D-B) | $ - | $ (1.00) |
| | | | $ 7.00 | $ 6.00 | | $ 6.00 | $ 5.00 |
| E | El Paso FT-1 Monthly Reservation Rate Divided by 30.4 | | $ 0.3029 | $ 0.3029 | | N/A | N/A |
| | | | $ 7.3029 | $ 6.3029 | | | |
| | | x | | | | | |
| | | (A) | 2,000 | 2,000 | | (2,000) | (2,000) |
| | Daily Cashout Adjustment | | $ 14,605.80 | $ 12,605.80 | | $(12,000.00) | $(10,000.00) |

Effective Date: May 1, 2008, subject to approval by the ACC

Date Issued: February 25, 2008

Customer: **YUMA COGENERATION ASSOCIATES – Yuma, AZ**

**SOUTHWEST GAS CORPORATION**
"Utility"

By: William N. Moody
William N. Moody
Title: Vice President Gas Resources
Date: 2/22/08

**YUMA COGENERATION ASSOCIATES**
"Customer"

By:
Title: President
Date: 2/21/05